IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8783 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SANGITABEN ROBERT VENTON

Versus

REGIONAL PASSPORT OFFICER AHMEDABAD

Appearance:

1. Special Civil Application No. 8783 of 2002

MR CHETAN K PANDYA for Petitioner No. 1-3

MR N.J.SHAH for MR DN PATEL for Respondent No. 1

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 27/09/2002

ORAL JUDGEMENT

Rule. Mr. N.J.Shah, learned advocate appears and waives service of notice of rule on behalf of the Respondents/Passport Authority.

2. Looking to the nature of the urgency in the matter and on the facts and in the circumstances of the case, by the consent of the learned advocates appearing for the parties, matter is taken up for final hearing

today.

3. In this petition which is filed under Article 226 of the Constitution, petitioners have prayed to issue a writ of mandamus or appropriate writ, order or direction to direct the Respondents/Passport Authority to accept the divorce deed and remarriage certificate and issue the passport in the new names of the petitioners after remarriage. As the petitioners are desirous of immigrating to foreign country, petitioners applied for issuance of fresh Passport in the prescribed form.

4. On behalf of the Passport Authority, it has been contended that as per the formalities a certificate issued by Pramukh of the samaj of the petitioner to the effect that the divorce has taken place as per the rituals and procedures of the samaj is required. The another formality to be completed by the petitioners is to get the divorce deed registered with Sub-Registrar's office and a certificate from the office of Sub-Registrar to that effect is to be submitted. However, if this Court direct the Passport Authority, they will consider the matter in light of the direction issued by the this Court.

5. Having considered the submissions advanced by the learned advocates appearing for the parties and on having perusal of the averments made in the memo of the petition and the grounds set out therein and on the facts and in the circumstances emerging from the record of the case, I am of the opinion that this petition deserves to be allowed by issuing appropriate direction to the Respondents/Passport Authority to consider the application of the petitioners afresh and decide the same on the basis of aforesaid material to be produced by the petitioners including any other material as may be deemed fit by the authority which may be placed before the Respondents/Passport Authority in accordance with law.

6. For the foregoing reasons, petition succeeds and accordingly it is allowed and resultantly, Respondents/Passport Authority is hereby directed to consider the case of the petitioners and to pass appropriate order on the basis of the material which may be placed before the Passport Authority, and in accordance with law. The Respondents/Passport Authority shall take the decision within a period of six weeks from the date of receipt of the writ of this Court provided the other formalities are fulfilled by the petitioner.

7. Since the error in the original

Passport/Application has crept in on account of inadvertant mistake on the part of the petitioners and a fresh Passport is required to be issued at their behest, petitioners shall pay the cost of Rs.2500/- of this litigation to the Respondents/Passport Authority.

Rule is made absolute to the aforesaid extent.
DS permitted.

(A.M.Kapadia,J)
Jayanti*